

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

COUNTY OF NEWPORT

At a meeting of the Town Council of the Town of Tiverton, County and State aforesaid, held at the Tiverton Town Hall, 343 Highland Road, on the 22nd day of September 2008 A.D. at 7:00 p.m.

President Durfee opened the meeting with the Pledge of Allegiance to the Flag.

Roll Call:	Joanne M. Arruda	Louise Durfee
	Donald Bollin	Jay Edwards
	Paul E. Carroll-arrived at 7:10 pm	Brian A. Medeiros
	Hannibal F. Costa - absent	

Town Administrator, James C. Goncalo
Town Solicitor, Andrew M. Teitz were also present.

Approval of Consent Agenda:

All items listed with (CA) are to be considered routine by the Town Council and will be enacted by one motion. There will be no separate discussion of these items unless a member of the Council or a member of the public so requests, in which event the item will be removed from Consent Agenda (CA) consideration and considered in its normal sequence on the agenda.

Councilor Edwards requested the removal of items CA- 2b, CA-3a and CA-5 from the Consent Agenda.

Councilor Arruda requested removal of item CA-1-a from the Consent Agenda.

Councilor Bollin made a motion to approve the remainder of the Consent Agenda. Seconded by Councilor Medeiros the motion passed unanimously.

The Consent Agenda was as follows:

CONSENT AGENDA

A-1-Approval of Minutes of Previous Meetings.

- b. Approve of Executive Session Minutes Meeting of September 8, 2008
- c. Approve of Executive Session Minutes Meeting of June 23, 2008

A-2-Receipt of Minutes from Various Board and Commissions:

- | | |
|----------------------------|-------------------------------------|
| a. Art Council (2) | e. Historical Cemeteries |
| c. Conservation Commission | f. Wastewater Management Commission |
| d. Economic Development | |

A. -3.CORRESPONDENCE - RECEIVE AND FILE

- b. Received From John Moran, Jr. Regarding Tiverton Zoning Board – Referred to Town Administrator, Building/Zoning Official and Asst. Solicitor Ruggiero Response From Building/Zoning Clerk

A- 4. Approval of Tax Assessor Abatements

Approval of Regular Council Meeting Minutes September 8, 2008

Councilor Arruda questioned the Appointment of the Planning Board Administrative Officer. Town Clerk Nancy Mello confirmed the appointment of the Administrative Officer was continued to a Special Council Meeting scheduled for October 6,2008. Councilor Arruda then motioned to accept the Council Minutes of Sept. 8,2008. Seconded by Councilor Edwards motion passed unanimously.

Cemetery Commission

Councilor Edwards pointed out the Treasurer’s Report was not accepted as noted by the minutes, because of lack of information and questioned. Town Administrator James Goncalo to follow up, stated not an, issue plenty of information.

Councilor Edwards motioned to accept the Cemetery Commission minutes, seconded by Councilor Arruda motion passed unanimously.

Received Resolution from Town of Middletown Rejecting RI Global Consumer Compact Waiver Application Pertaining to Medicaid Reform

Councilor Edwards motioned to table the resolution rejecting RI Global Consumer Compact Waiver Application Pertaining to Medicaid Reform, to follow the lead and seek alternative methods.

Councilor Durfee wanted to hear from both sides, felt more information was needed before making a decision. Councilor Arruda requested the resolution be read aloud so others would know what the Council was discussing. Councilor Edwards then read the resolution. Councilor Medeiros asked this item be moved to the next meeting for further discussion. Councilor Edwards motioned to move this item to the next meeting. Seconded by Councilor Medeiros the motion passed unanimously.

A. - 5. Denise DeMedeiros, 55 Kevin Drive – Request Schedule Public Hearing on October 14th For Noise Variance - Fund Raiser at Boland Tree Farm, 97 S. Lake Road, November 1st with Rain Date of November 8th From 6-11 p.m.

Petitioner Denise DeMedeiros stated this was a fundraiser for the Gerald Leduc Foundation at Boland Tree Farm from 6-11, two bands were scheduled and possibly a DJ, all proceeds to go to Tiverton Fire Dept., to be used for water rescue.

Councilor Edwards motioned to schedule a Public Hearing on October 14,2008 for Noise Variance. Seconded by Councilor Arruda the motion passed unanimously.

The Town Council was sitting as the Board of Licensing Commissioners:

**BOARD OF LICENSING COMMISSIONERS AND PUBLIC HEARINGS:
PUBLIC HEARING – ADVERTISED**

**Show Cause Hearing for Spa Island Enterprises, Inc. d/b/a Lil’ Bear Lounge
Requested by RI State Fire Marshal’s Office, Tiverton Fire and Tiverton Code Enforcement for Liquor License, Victualling and Tobacco License.**

Town Solicitor Teitz received a phone call from Attorney Whitman indicating due to personal matters could not attend the meeting on short notice and asked for a continuance. Solicitor Teitz said this hearing was brought forth by the State Fire Marshall’s Office and could not assure Mr. Whitman this matter would be continued.

Tiverton Fire Chief Robert Lloyd, Octavio Viera from the State Fire Marshall’s Office and Tom Mello, Tiverton Fire Prevention were in attendance. Chief Lloyd, for two years have been waiting for Lil Bear to be in line with State Fire Code and have not been able to get any movement. As of this day Sept. 22,2008 some changes have occurred. Chief Lloyd had concerns, however was prepared to move to the next meeting if Council agreed.

Councilor Bollin motioned to continue to the next meeting, October 14, 2008, based on information provided, for lack of representation and efforts continuing to fix the problems. Councilor Durfee questioned exposure with regards to the Town. Chief Lloyd responded the building has a fire alarm system, but not a full municipal system. Has a raised dance floor with a railing, access to back deck door swings in the wrong direction, trip hazards, numerous extension cords some over patron’s heads, ventilation and grease issues. Inspector Viera was there in the afternoon, stated a lot of issues have been addressed. There is a two-week time frame for a municipal alarm box; sprinklers are required, continuous need for a finite date.

Viera stated at this time the fire alarm system is local, meaning someone has to call it in. As far as the hood system, there was grease up in the roof area that’s been cleaned. Solicitor Teitz questioned the capacity of the establishment, which if in the next two weeks there is no alarm, could suspend the entertainment license or request the presence of a fire detail. Inspector Vieira noted the Chief had fire details scheduled, capacity is 565 people and the Chief can impose additional details. Occupancy can be reduced by 20% or add more details. Councilor Medeiros asked we should be so concerned going forward not to continue this license. Insp. Vieira two of these issues are in court at this time, sprinkler and the fire alarm. Other issued have been corrected, cannot speak about the court issues.

Councilor Durfee was concerned about the capacity of 565, the size of the building and the trip hazards. Councilor Carroll questioned the emergency lighting issue. Insp. Vieira replied the exit is currently operational; the light is to be replaced. At this time Councilor Bollin repeated his motion based on Chief Lloyd’s recommendation to continue to next meeting to insure representation by Counsel. Chief Lloyd stated he would do the same thing with any other establishment, have to give them some time, although concerned about fire safety.

Councilor Durfee remarked after two years, now we get action, obviously there are risks, if there were a fire for any reason, would be a disaster, wondered about lowering the capacity. Solicitor Teitz had concern with type of liquor license if considered a nightclub, should be prepared to address this in another month. Councilor Carroll urged Mr. Kelly to get as much done as possible in the next two weeks, two years is a long time, do not like to close any businesses, safety, health and welfare are a concern, need to be compliant.

Solicitor Teitz remarked that Gareth Eames, Building/Zoning Official also had issues, talking three more weeks, suggested the municipal alarm box should be a condition by the next meeting. Mr. Eames cited the business on July 28 on seven counts. Some of these issues have been addressed, the open sewer was capped without a permit, the second floor deck rail, stairs and guards to the second floor, agreed to issue a second notice so they can shut this area for the winter. Councilor Carroll wanted to know how long these violations have been in existence.

Mr. Kelly, in his defense, stated the deck never had the public in that area, the sewer line drain was for the ice machine, never had more than 150 people in the building, except for a benefit, have a detail for over 110 people and have had a detail since the Fire Dept. visit. Wanted Councilor Bollin ‘s motion to continue acted upon.

Councilor Arruda remarked the Council issues licenses subject to conforming to all legal requirements, still serious infractions, in three weeks there will still be other infractions, some simple remedies could have been taken care of, the legal requirements include a sprinkler system and a municipal alarm box. Don’t know if three weeks is enough, has serious concerns about delaying. Councilor Medeiros said the hearing was not to give anyone a hard time or shut down businesses. No one wants to be in a position after the fact, based on what Chief Lloyd said, no problem with three weeks, after that won’t extend any more time.

Chief Lloyd did have safety concerns, thought they deserved legal representation and due process to defend themselves against his accusations. Councilor Carroll asked them to work with the Building Official.

Councilor Bollin’s motion to continue was seconded by Councilor Carroll to continue to October 14,2008 but not beyond. The motion passed on a vote of 5-1, Councilor Arruda opposed.

APPOINTMENTS & RESIGNATIONS

Town Clerk – Request Scheduling of Interviews for Various Boards and Commissions at October 6th Special Meeting

Had discussed having a special meeting on October 6, 2008. Meeting would be at the Community Center for interviews and appointments, unless the Council opts for September 29. Councilor Medeiros made a motion to schedule interviews for Boards and Commissions at a Special Meeting of the Town Council at 7:00 pm on October 6, 2008. Seconded by Councilor Bollin the motion passed unanimously.

For the record, Councilor Carroll noted according to the minutes of the last meeting, he made a motion to appoint at this meeting the Administrative Officer to the Planning Board. Town Clerk Nancy Mello stated by end of discussion at last meeting felt everything on appointments was moved to the special meeting. Appointments will be on agenda for October 6th.

UNFINISHED BUSINESS

Town Administrator – Report on Economic Development Commission

Leonard Schmidt, Chairman provided the first written report to the Council from the EDC, which now has a full complement of members. Reviewed assets, issues, initiative and priorities, and needs. Councilor Durfee congratulated their work on report to Council indicating they have been very busy. Would like to see brochure done of Tiverton showing attributes as well as enterprise zone benefits, etc.

Councilor Medeiros – Discussion of Voter Guide to Proposed Charter Amendments For November Election

Ballot

Councilors received handout on questions to be included in voter information guide. Town clerk provided back up to mailing, printing and newspaper advertising of the guide. Consensus by Council was all households should receive by mail due to importance of Charter Amendments, especially the changes proposed on replacement or change to FTM and issues of budget process.

Councilor Edwards motioned, seconded by Councilor Carroll to approve approximately \$3,500 from Council contingency account to allow mailing of voter guide to households, and if any funds left in election account they will be reimbursed to contingency account. Motion passed unanimously.

Councilor Medeiros – Update on Wind Power Options by Town Planner

Christopher Spencer informed Council he had spoken to private developer on wind power. Unable to attend this evening, but will attend the October 6th Special Meeting. Councilor Bollin motioned to add Wind Power presentation to the October 6th Special Meeting at the Community Center. Seconded by Councilor Edwards, passed unanimously. Agreed to allow 7 to 7:30 for presentation.

FINANCIAL BUSINESS:

NEW BUSINESS:

Councilor Carroll – Request Approval to Dedicate Fire Station #4 in Memory of Fire Fighter Lt. Gerald R.

Leduc

Councilor Carroll had been approached by friends of fallen firefighter Gerald Leduc to dedicate Fire Station 4 in his memory. Councilor Carroll motioned to dedicate Station 4 to the memory of Gerald R. Leduc, seconded by Councilor Edwards motion passed unanimously. Agreed to keep Council informed as to formalizing the dedication.

Councilor Edwards – Update Council on Status of Recycling, RIRRC Contract & the Landfill

Councilor Edwards informed Council after reviewing alternatives to the RIRRC contract for the landfill, not as favorable as expected. Able to send mattresses, tires, etc if have contract. Recommends contract be given to Solicitor for review and put back before Council.

Town Administrator – Request to Remove Parcel From Tax Sale Block 130/Card 27

Request was made to remove parcel 130-27 from the tax sale scheduled for December 5, 2008. There is litigation regarding ownership and the current residents are making payments monthly until settled. Councilor Carroll motioned to Remove from tax sale, seconded by Council Bollin. Motion passed unanimously.

BIDS & REQUESTS FOR PROPOSALS

Town Administrator – Request Permission to Advertise for Bids to Purchase (2) New Police Cruisers and/or Use of Comparable State Bid List

Requested permission to purchase two new Police Cruisers by bid or State bid lists. Town Administrator informed not adding to fleet, getting rid of two older vehicles at an excess sale. Funds have been appropriated for this purpose.

Councilor Arruda motioned to advertise bids for two new police vehicles, seconded by Councilor Carroll and passed unanimously.

Chief Blakey, for clarification requested use of State list. Consensus was to bid and see what is the least expense, then report to Council.

TOWN ADMINISTRATOR ANNOUNCEMENTS, COMMENTS AND QUESTIONS

1. Town Administrator read correspondence received from International Association of Fire Fighters expressing sincere condolences to the family and community on the loss of Fire Fighter Gerald R. Leduc.

2. On October 6th to the 9th the National Institute of Occupational Safety & Health will investigate into the death of Fire Fighter Leduc.
3. There will be another revaluation seminar approximately 90 minutes long.
4. A certified revaluation company will be sending out mailings to all recently purchased homeowners.
5. E Waste disposal at Tiverton landfill to begin on September 30th for most computer related items. Due to DEM regulations TV are no longer allowed in the landfill. A drop off disposal for TV's is November 1, 2008 from 9 to 1p.m. Disposal of TV's will have a "clearing house" fee based on size.
6. Announced Senior Center received grant for \$5,483 from State of RI for part time office clerk. This is 50% reduction from previous year's grant.

COUNCIL ANNOUNCEMENTS, COMMENTS AND QUESTIONS:

Councilor Durfee requested copies of monthly reports. Town Administrator stated computer software technician would be in to work out a few more bugs in system. Hope to have reports by next week.

TOWN SOLICITOR, ANNOUNCEMENTS, COMMENTS AND QUESTIONS:

1. Solicitor Teitz distributed copy of the ordinance on Amendment to establish a building appeals local board. Is being advertised for October 14th public hearing and wanted Council to have copy of language.
2. In attempt to wrap up loose ends, Attorney Teitz requests permission to prepare language and advertised ordinance amendments on detailing entertainment license, Chapter 70 -Curb Cuts, Article III, Junk Dealers and Junkyards, and Resolution for amending fees. Copies of language would be available for Council review at the October 14th meeting.

Councilor Medeiros motioned to schedule public hearing on October 27th for the four topics discussed, seconded by Councilor Arruda. Motion passed unanimously.

1.Distribution of Ordinance Amendment to Chapter 18 – Buildings and Building Regulation – Article II – Establishing Local Board of Appeals

2.Schedule Public Hearing on October 27, 2008 Council Meeting and Permission for Solicitor to Prepare Language to Advise Ordinance Amendments

- a. Ordinance Establishing Entertainment License
- b. Amendment to Chapter 70 – Streets, Sidewalks and Other Public Places
Addition of 70-3.1 Curb Cuts
- c. Ordinance Amendment to Article III, Junk Dealers and Junkyards
- d. Resolution Amending Fees

Councilor Medeiros motioned to schedule a Public Hearing on October 27,2008 for the above items a-d. Seconded by Councilor Arruda motion passed unanimously.

CLOSED EXECUTIVE SESSION

A motion was made by Councilor Bollin to enter into Executive Session pursuant to 42-46-5(a)(2) – Litigation. Seconded by Councilor Medeiros motion passed unanimously.

A motion was made by Councilor Bollin to continue in Executive Session pursuant to 42-46-5(a)(5) – Possible Acquisition or Disposition of Town Held Property. Seconded by Councilor Medeiros motion passed unanimously.

A motion was made by Councilor Bollin to further remain in Executive Session pursuant to 42-46-5(a)(6) – Prospective Business. Seconded by Councilor Medeiros motion passed unanimously.

The Council entered into Executive Session at approximately 8:30 p.m.

The Council returned to Open Session at approximately 9: 35 p.m.

OPEN SESSION:

In open session Councilor Durfee announced no formal action had been taken in Executive Session. Councilor Edwards motioned to seal the minutes of the Executive Session, seconded by Councilor Carroll. Motion passed unanimously

ADJOURNMENT:

Councilor Arruda motioned to adjourn, seconded by Councilor Carroll. Motion passed unanimously. Council adjourned at approximately 9:40 p.m.

A True Copy.

ATTEST: _____
Nancy L. Mello, Town Clerk